

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

NO. 5:11-CR-119-1F

FILED IN OPEN COURT
ON 7-5-11
Dennis P. Iavarone, Clerk
US District Court
Eastern District of NC
SOF

UNITED STATES OF AMERICA :
 :
 v. :
 :
 KEVIN AUSTIN KIRBY :

PRELIMINARY ORDER OF FORFEITURE

WHEREAS, pursuant to the entry of a Memorandum of Plea Agreement entered into by the defendant, KEVIN AUSTIN KIRBY, on July 5, 2011, the following property is hereby forfeitable pursuant to 21 U.S.C. § 853 and 18 U.S.C. § 924(d)(1), made applicable to this proceeding by virtue of 28 U.S.C. § 2461(c), in knowing violations of 21 U.S.C. § 846 and 18 U.S.C. § 922(g)(1) and 924, to wit: (1) \$4,492 in United States Currency seized at the time of arrest, and (2) a Smith and Wesson, .357 Magnum Revolver, serial number: ADD7971 and any accompanying ammunition; and

WHEREAS, by virtue of said Memorandum of Plea Agreement, the United States is now entitled to possession of said personal property, pursuant to 21 U.S.C. § 853 and 18 U.S.C. § 924(d);

It is hereby ORDERED, ADJUDGED and DECREED:

1. That based upon the Memorandum of Plea Agreement as to the defendant KEVIN AUSTIN KIRBY, the United States is hereby authorized to seize the above-stated personal property, and it is hereby forfeited to the United States for disposition in accordance

with the law, including destruction, as allowed by Fed. R. Crim. P. 32.2(b)(3). In accordance with Fed. R. Crim. P. 32.2(b)(3), this Order is now final as to the defendant.

2. That upon sentencing and issuance of the Judgment and Commitment Order, the Clerk of Court is directed to incorporate a reference to this Preliminary Order of Forfeiture in the applicable section of the Judgment, as required by Fed. R. Crim. P. 32.2(b)(3).

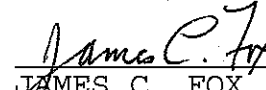
3. That pursuant to 21 U.S.C. § 853(n), the United States shall publish notice of this Order and of its intent to dispose of the property in such manner as the Attorney General directs, by publishing and sending notice in the same manner as in civil forfeiture cases, as provided in Supplemental Rule G(4). Any person other than the defendant, having or claiming any legal interest in the subject property must file a petition with the Court within 30 days of the publication of notice or of receipt of actual notice, whichever is earlier.

The petition must be signed by the petitioner under penalty of perjury and shall set forth the nature and extent of the petitioner's right, title, or interest in the subject property, and must include any additional facts supporting the petitioner's claim and the relief sought.

4. That upon adjudication of all third party interests this Court will enter a Final Order of Forfeiture pursuant to 21 U.S.C.

§ 853 and 18 U.S.C. § 924(d)(1) as required by Fed. R. Crim. P.
32.2(c).

SO ORDERED. This 5th day of July, 2010.



JAMES C. FOX
Senior United States District Judge

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